

U.S. ELECTION ASSISTANCE COMMISSION



2012 Election Administration & Voting Survey

South Carolina

Statutory Overview

In order to better understand state laws governing federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help EAC to better understand the quantitative data relating to the 2012 general election that we are collecting from all U.S. states and territories.

EAC understands that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

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DIRECTIONS AND EXAMPLE

Please provide your state's legal citation for the responses to these questions (where applicable). Prior to beginning the Statutory Overview, please ensure that "track changes" is turned on; this will provide a record of all changes that are made including insertions, deletions, and formatting changes. To turn on track changes hold down "Control" and "Shift" and "E" at the same time. For additional assistance in working with "track changes" please contact your Technical Assistance point of contact at ICF International.

We have provided you with your answers to the 2010 Statutory Overview. If there has not been a change in your State's laws or legal citation in the response to a question, please mark No Change Since 2010 with an "X" as shown below:

X **No Change Since 2010**

If the response has changed since 2010, please mark Changed Since 2010 with an "X" and modify the answer as needed using track changes. If you need to replace the entire answer, please delete the 2010 response and record your 2012 response between the red bracketed text lines, as described below.

X **Changed Since 2010**

Please answer each question to the best of your ability. If terms are ambiguous or not relevant, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks statutory reference but is widely understood in practice, please explain. If election procedures vary at the local level within your state, please explain to the best of your ability.

If state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court, or executive decision, please specify.

Please keep your responses between the red, bracketed text lines. This will help us extract your answers into our central database.

Example:

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

- a. Over-vote

[Begin definition (a) below this line.]

Your answer goes here. You may enter the text directly, or cut and paste from another word processing program.

There is no limit to the length of your response.

[End definition (a) above this line.]

SECTION A: GENERAL

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a. Over-vote

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (a) below this line.]

Voter marks more names or choices than the number of seats to be filled or questions to be answered. (From SEC document "Uniform Definition of What Constitutes a Vote")

[End definition (a) above this line.]

b. Under-vote

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (b) below this line.]

Voter votes for no candidates, or fewer candidates than allowed. (From SEC document "Uniform Definition of What Constitutes a Vote")

[End definition (b) above this line.]

c. Blank ballot

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (c) below this line.]

This would be widely understood as a ballot with no markings.

[End definition (c) above this line.]

d. Void/Spoiled ballot

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (d) below this line.]

A ballot issued to a voter that is damaged or mismarked and is returned by the voter in exchange for a replacement ballot. S.C. Code of Laws SECTION 7-13-1150.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

_____ No Change Since 2010 X Changed Since 2010

2010 Response:

[Begin definition (e) below this line.]

A ballot voted when there is some question as to whether a voter is qualified to vote in the election, which cannot be immediately resolved.
S.C. Code of Laws SECTION 7-13-810, 7-13-820, 7-13-830

Section 5 of Act 27 of 2011 (Photo ID Legislation) creates additional scenarios by which a provisional ballot may be cast. Section 5 has not been precleared by the U.S. Department of Justice and is not in effect. Section 5 and other provisions of the Photo ID Legislation are currently the subject of a federal lawsuit in which South Carolina is seeking preclearance of the law. When or if preclearance will occur is unclear at this time. If precleared, the new scenarios under which a voter could vote a provisional ballot are:

- Poll manager disputes photo on ID presented is that of the person presenting himself to vote, voter votes provisional ballot, county election commission resolves dispute and decides whether to count ballot.
- Voter has no ID whatsoever
 - Voter may vote provisional ballot that is counted if he brings proper ID to county election commission prior to certification of election
 - If voter has no ID due to reasonable impediment to obtaining ID, voter may swear to this by affidavit and vote provisional ballot that is counted unless county election commission has grounds to believe affidavit is false.
 - If voter has no ID due to religious objection to being photographed, voter may swear to this by affidavit and vote provisional ballot that is counted unless county election commission has grounds to believe affidavit is false.

[End definition (e) above this line.]

f. Absentee

☐ No Change Since 2010 ☒ Changed Since 2010

2010 Response:

[Begin definition (f) below this line.]

Absentee voting is the process by which voters who meet one of the qualifications to vote absentee cast a ballot prior to Election Day.
S.C. Code of Laws, Title 7, Chapter 15.

Photo ID law reference above would require presentation of one of five approved photo IDs before voting absentee in person at the voter registration office.
Absentee voting by mail would not change.

The SEC has implemented a system by which voters may download and print their personalized absentee application through the SEC public website, scvotes.org. To vote absentee by mail, the voter must first be issued an application. In the past, that was done by calling, writing, faxing, or emailing the voter registration office. The voter registration office would then mail the personalized absentee application to the voter. Now, the voter can get that application online. This speeds up the absentee by mail process by taking one of the mailing steps out of the process. The online absentee application request system did not require a state legislative change only a computer system change. The new process was precleared by DOJ.

[End definition (f) above this line.]

g. Early voting

☒ No Change Since 2010 ☐ Changed Since 2010

2010 Response:

[Begin definition (g) below this line.]

N/A.

[End definition (g) above this line.]

h. Active Voter

☒ No Change Since 2010 ☐ Changed Since 2010

2010 Response:

[Begin definition (h) below this line.]

A voter whose name is on the list of active, registered voters.
S.C. Code of Laws SECTION 7-1-20 (15).

[End definition (h) above this line.]

i. Inactive Voter

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (i) below this line.]

A voter whose name is not on the list of active, registered voters.

[End definition (i) above this line.]

j. Other terms (please specify) _____

☐ **No Change Since 2010** ☒ **Changed Since 2010**

2010 Response:

[Identify each TERM and definition separately and begin below this line.]

Domicile (Residency): Section 1 of Act 27 of 2011 (The Photo ID Bill) adds factors to consider in determining one's residency for voter registration purposes to S.C. Code Section 7-1-25. This change is pending preclearance along with the other provisions of the bill as referenced above.

[End TERM(s) and definition(s) above this line.]

A2. Please provide the legal citation for any *significant* changes to election laws or procedures that have been enacted or adopted since the previous Federal election. "Significant" does not include routine or technical changes (such as changes to election district boundaries or polling place changes). However, EAC would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

☐ **No Change Since 2010** ☒ **Changed Since 2010**

2010 Response:

[Begin response to above question (A2) below this line.]

See references to Photo ID law above.

If preclearance is granted Photo ID law would make several changes to the way S.C. conducts elections. The most significant of these is the change to the list of IDs required to vote. Currently, voters may vote with a S.C. Driver's License, ID card issued by the S.C. Department of Motor Vehicles, or a standard voter registration card (without a photograph).

If and when the photo ID laws gains federal approval, voters will have to provide one of the following current and valid forms of photo ID to vote in person:

- S.C. Driver's License
- S.C. DMV ID Card *
- S.C. Voter Registration Card **with photo****
- Federal Military ID with photo
- U.S. Passport

* Now available free of charge from DMV for persons age 17 and older

** Not currently available. Will become available only after federal approval of photo ID law.

The photo ID law contains exceptions for voters who have a religious objection to being photographed and for voters who have a reasonable impediment to obtaining photo ID. Voters claiming a religious objection or reasonable impediment must complete an affidavit provided to them at their polling place before voting.

For complete details, see: http://www.scstatehouse.gov/sess119_2011-2012/bills/3003.htm

S.C. also recently passed Online Voter Registration, Act 265 of 2012. As of September 30, federal preclearance of this legislation had not been granted. This would allow any qualified citizens with a S.C. Driver's License or DMV ID card to submit their registration application online through the State Election Commission's website. The bill also requires the S.C. DMV to share information with the SEC about voters who surrender driver's licenses in other states.

For complete details, see: http://www.scstatehouse.gov/sess119_2011-2012/bills/4945.htm

S.C. pass Act 43 of 2011 which expanded UOCAVA requirements to all elections held in the state. Furthermore, it requires absentee ballots to be sent by the close of the next business day to any UOCAVA voter who submits a request after the 45-day mark. This legislation has been precleared and is now in effect.

[End response to above question (A2) above this line.]

SECTION B: VOTER REGISTRATION

B1. Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (B1) below this line.]

Top-down system.

[End response to above question (B1) above this line.]

If your state uses a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above clarification question to B1 below this line.]

N.A.

[End response to above clarification question to B1 above this line.]

B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?

☐ **No Change Since 2010** ☒ **Changed Since 2010**

2010 Response:

[Begin response to above question (B2) below this line.]

Voters are placed on inactive status only by the State office.

Convictions are made inactive based on a match with a file we receive from the State and Federal courts. The file is compared to the statewide database and voters receive a letter that they were placed on inactive status and what steps they need to take to re-register.

Deaths are placed on inactive status based on a file from Vital Statistics. The file is matched on full SSN, birthdate, and Name (same for convictions).

Voters who move are placed on inactive status based on returned mail or information we receive from county offices or the voter.

Online voter registration bill, if precleared, would require SC DMV to provide SEC with information on voters who have surrendered driver's licenses in other states.

Written requests are when voters send a written request to be removed.

Confirmation mailings - voters who do not respond to the mailing are placed on inactive status for failure to respond to the mailing.

All removals are made at the state level and the process is the same for UOCAVA.

[End response to above question (B2) above this line.]

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

 No Change Since 2010 X Changed Since 2010

2010 Response:

[Begin response to above question (B3) below this line.]

Voters are archived once per year. Moves and conviction status voters are archived every 2 years. Deaths are archived every year. Confirmation mailing voters are archived after 2 consecutive general elections.

Archived voter records remain in the statewide voter registration system, but are not printed on voter registration lists and are not included in most routine voter registration statistics.

[End response to above question (B3) above this line.]

B4. Can your state's voter registration database (or equivalent) share information electronically with your state's driver's license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.

 No Change Since 2010 X Changed Since 2010

2010 Response:

[Begin response to above question (B4) below this line.]

If and when online voter registration goes into effect. DMV records are used to verify information submitted by voters online during the registration process. Data is imported from DMV into the voter registration system, as well as a digital image of the voter's signature.

The bill also requires SC DMV to begin sharing information with the SEC regarding voters who surrendered their driver's licenses in other states.

[End response to above question (B4) above this line.]

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with NCOA?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (B5) below this line.]

We do not currently use the NCOA.

[End response to above question (B5) above this line.]

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (B6) below this line.]

Any person who is convicted of a felony or an offense against the election laws is not qualified to register or to vote, unless the disqualification has been removed by service of the sentence, unless sooner pardoned. Service of sentence includes completion of any prison/jail time, probation, parole, and payment of restitution. Felons must re-apply for registration. The law does not require proof of service of sentence, but does require the person to be qualified. A voter registration board may require proof of service of sentence in some situations.

[End response to above question (B6) above this line.]

B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).

 No Change Since 2010 X Changed Since 2010

2010 Response:

[Begin response to above question (B7) below this line.]

The voter registration application is available online at scvotes.org, where it can be printed, completed, and mailed, faxed, or emailed to the voter's county voter registration office.

See notes above regarding online voter registration.

[End response to above question (B7) above this line.]

SECTION C: ELECTION ADMINISTRATION

C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).

a. Are the votes counted centrally or at the precincts?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (a) below this line.]

Both at the precinct and centrally. Vote tallies are posted at the polling place on election night, then ballots are sent to county election office for central tabulation.

[End response to above question (a) above this line.]

b. If centrally tabulated, are the votes redirected to the appropriate precinct for reporting in the canvass?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (b) below this line.]

Ballots are not sent back to the precinct, but vote totals are reported by precinct.

[End response to above question (b) above this line.]

c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (c) below this line.]

They are reported as a single number in a virtual "absentee" precinct.

[End response to above question (c) above this line.]

d. How are UOCAVA ballots counted and reported?

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (d) below this line.]

They are included in the absentee precinct.

[End response to above question (d) above this line.]

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (C2) below this line.]

S.C. requires a reason for voting absentee.
7-15-310.

[End response to above question (C2) above this line.]

C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (C3) below this line.]

S.C. does not have early voting.

[End response to above question (C3) above this line.]

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (C4) below this line.]

No.

[End response to above question (C4) above this line.]

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (C5) below this line.]

A ballot voted when there is some question as to whether a voter is qualified to vote in the election, which cannot be immediately resolved. A challenge can be made by a poll manager, a qualified watcher, or an elector.

S.C. Code of Laws SECTION 7-13-810, 7-13-820, 7-13-830, 7-13-1880.

[End response to above question (C5) above this line.]

C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (C6) below this line.]

Ballots cast by a voter in the wrong precinct are not counted at the provisional ballot hearing. State law requires voters to vote in their precinct. **SECTION 7-5-120 and 7-7-910.**

[End response to above question (C6) above this line.]

C7. Please describe your state's laws regarding post-election audits, if any. A post-election audit refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark.

If your state has post-election auditing, consider including in your response information such as the unit being audited (e.g., precincts, machines); the sampling method (e.g., fixed percentages); whether there is a specific trigger for the audit; the location of the random selection (e.g., state, county); and the races that can be audited.

☐ **No Change Since 2010** ☒ **Changed Since 2010**

2010 Response:

[Begin response to above question (C7) below this line.]

There are no state laws regarding post election audits, but there are procedures. A statewide audit of all voting system data is conducted after every state-level election. Audit data and results are posted on the SEC's website, scvotes.org.

[End response to above question (C7) above this line.]

C8. Please describe any state requirements for poll worker training.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (C8) below this line.]

Poll managers must complete a training program approved by the State Election Commission. S.C. Code of Laws Section 7-13-72.

[End response to above question (C8) above this line.]

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (D1) below this line.]

S.C. does not capture this information.

[End response to above question (D1) above this line.]

D2. What identification does your state require from voters in the following situations:

a. registering to vote;

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (a) below this line.]

A current valid photo ID or a copy of a current utility bill, bank statement, paycheck or other government document that shows your name and address in this county.

[End response to above question (a) above this line.]

b. casting an in-person ballot;

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (b) below this line.]

Voter registration card, driver's license, or DMV-issued ID card.

[End response to above question (b) above this line.]

c. casting a mail-in or absentee vote;

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (c) below this line.]

No ID required. Signature on application is verified.

[End response to above question (c) above this line.]

d. casting a ballot under UOCAVA;

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (d) below this line.]

No ID required. Signature on application is verified.

[End response to above question (d) above this line.]

e. any other stage in registration or voting process in which identification is required (please specify).

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (e) below this line.]

In person absentee voting would require same ID as casting an in-person ballot.(b).

[End response to above question (e) above this line.]

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (D3) below this line.]

Watchers:

Each candidate in a primary election, or a non-partisan or announced write-in candidate in a general election, may appoint one watcher at a time for any voting place where this candidate's name is on the ballot. However, in any general or special election, all candidates of the same

political party shall be jointly represented at any one polling place by not more than 2 watchers for each 1,000 registered voters or fraction thereof registered at such polling place. (7-13-860) Observers:

Since elections are public functions, individuals representing organizations or themselves may observe the election process. These observers may stay inside the polling place if they do not talk to voters or interfere with the election process. Because of a polling place size, observers may be limited in number. Observers, as with anyone inside the polling place, may not display any type of campaign literature including a badge or item of clothing. Observers must conduct themselves in an orderly manner. Observers who are disorderly or unruly may be removed from the polling place (*Section 7-13-140*).

[End response to above question (D3) above this line.]

SECTION E: OTHER

E1. Under HAVA, Section 402, states are required to establish and maintain administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (E1) below this line.]

No.

[End response to above question (E1) above this line.]

E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (E2) below this line.]

[End response to above question (E2) above this line.]

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 5/31/2013). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2012 Election Administration and Voting Survey, 1201 New York Avenue, Suite 300, Washington, DC 20005.